

# **UNDERGROUND STORAGE TANK POLICY COMMISSION MINUTES**

**Arizona Department of Environmental Quality  
1101 West Washington Street, Phoenix, Arizona  
Carnegie Public Library, Basement Conference Room  
September 24, 2003**

## **COMMISSION MEMBERS IN ATTENDANCE:**

Andrea Martincic  
Tamara Huddleston  
Shannon Davis  
Hal Gill

Theresa Foster  
George Tsiolis  
Gail Clement

Mike O'Hara  
Roger Beal

## **COMMISSION MEMBERS ABSENT:**

Leandra Lewis  
Myron Smith

### **I. Meeting called to order by Chairman Mike O'Hara at 9:15 a.m.**

#### **Action Items:**

1. ADEQ will inquire about a reporting service for the taking of verbatim minutes.
3. ADEQ should investigate whether small business owners are being denied or receiving less money from the SAF than larger businesses.
4. The Commission will prepare a recommendation for re-writing A.R.S. §49.1054E.
5. The Commission requested ADEQ to provide a graph of the fund balances since the date the SAF Actuarial Study was finalized.

### **II. Administrative Issues**

The Commission approved the August 2003 minutes.

### **III. Recording of Meeting Minutes**

The Commission discussed recording minutes for the Underground Storage Tank (UST) Policy Commission. The current court reporting company had elected not to continue recording minutes because of the difficulty in recording in an open meeting setting. Mike O'Hara recommended that minutes be recorded without the assistance of a court reporter. Other members indicated that using a court reporter has many benefits. Mr. O'Hara also requested that ADEQ continue to check with other court reporting agencies about providing services, and bring this information to the Commission.

### **IV. ADEQ Updates**

- A. Ian Bingham provided the Commission with an update on the status of the Corrective Action Section (CAS). Ms. Clement questioned whether the actual number of closures was decreasing. Mr. Bingham responded that the closure

numbers were predicated only on the number of files reviewed and may not necessarily reflect a universal trend.

- B. Judy Navarrete provided the Commission with an update on the status of the State Assurance Fund Section. Ms. Navarrete said that staff borrowed from the CAS to review SAF claims have been returned. Ms. Navarrete also said that there is currently a backlog in getting warrants out. Mike O'Hara requested a month-by-month statistical comparison of this year's numbers to last year's.
- C. Judy Navarrete provided a report summarizing the total SAF applications received from 2001 to 2004, and the pre-approval applications received for the fiscal years 2001 to 2004. Ms. Martincic requested that SAF information regarding the amount requested/approved/paid/denied be presented in a clear and useful format that shows statistical trends and reflects the previous years numbers. Mr. Tsiolis stated the decreased number of releases would result in a decreased demand on the fund. Ms. Clement was concerned that small businesses were receiving less SAF money than larger businesses, which is contrary to the original intent of the SAF.
- D. Ron Kern presented information regarding UST Financial Responsibility and ADEQ's initiative to encourage compliance.
- E. Ron Kern gave a brief summary of UST-related Congressional Bills (SB 195 and HR 2733).
- F. Steve Burr presented an interpretation of the term "Substantive Policy." Mr. Burr explained that an agency practice is not a substantive policy because a policy is written and a practice is not. Additionally, a substantive policy or practice does not require a change in statute or rule. Ms. Clement questioned whether this interpretation encourages ADEQ to avoid putting practices or policies in writing.

## **V. Financial Subcommittee Updates**

Mr. O'Hara gave an update of the last Financial Subcommittee meeting. The items discussed included A.R.S. §49-1054.E, and whether the SAF should be considered as a primary financial assurance mechanism rather than a secondary mechanism. Shannon Davis suggested that the Financial Subcommittee was the proper forum to address this issue, as well as that of SAF phase-out. Ms. Martincic was concerned that UST owners who were self-insured would have easier access to the SAF than UST owners who had to purchase insurance. Insurance issues will be discussed in more detail at a later Financial Subcommittee meeting. A motion was passed for the Policy Commission to recommend rewriting A.R.S. §49-1054.E.

## **VI. UST Stakeholders Round Table Meeting of September 19, 2003**

The first meeting of the UST Program Reform (UST Stakeholders Round Table) meeting was held. At that meeting, Director Owens discussed the reason for the UST Program Reform meeting(s) with the 12-member stakeholder group. Additional meetings are scheduled for October 15 and 29, and a final wrap-up meeting will be held on November 17th. ADEQ will draft a mission statement for the group that will be available on Monday, September 29. The public may provide input to the proceedings by submitting issues to Shannon Davis via e-mail or in writing.

## **VII. Technical Subcommittee Updates**

Mr. Hal Gill gave the Technical Subcommittee update. There were three major issues discussed at the Technical Subcommittee meeting: the groundwater study, well abandonment and the DEUR issue. Discussion of the Feasibility Testing and Pilot Study will be continued at next meeting.

## **VIII. SAF Actuarial Study**

The previous Actuarial Study estimated that the SAF backlog should be resolved by 2013. Judy Navarrete will provide updated information at the next meeting on the fund balances since the actuarial study was finalized.

## **IX Discussion of Agenda Items for Next Commission Meeting**

SAF Phase-out.

## **X General Call to the Public**

Leon Vannais commented that the EPA has approved the SAF as a partial mechanism for Financial Responsibility.

John Pearce commented that the Commission should reconsider rewriting A.R.S. §49-1054.E, because the statute (A.R.S. §49-1054.A) states that the SAF considered as a primary financial assurance mechanism. He said that the first \$500,000 should be paid from the SAF, and insurance should cover the remaining \$500,000.

## **XI Announcements:**

Next meeting will be held on Wednesday, October 22.

## **XII Adjourn:**

Meeting adjourned at 12:05 p.m.